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Date: November 9, 2004

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Fax No.: 703-872-9306

From: Nancy L. Glynn for Vincent P. Liptak, Reg. No. 53,225 *MLA*

Legal Department

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Subject: Information Disclosure Statement  
U.S. Patent Application No. 10/840,189  
Filing Date: May 5, 2004  
In re Application of: LEE et al.  
Title: NITRO-SUBSTITUTED NON-FLUORESCENT ASYMMETRIC  
CYANINE DYE COMPOUNDS

Our File: 4378 D3 US

No. of pages (including cover sheet): 6

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Enclosures:

Information Disclosure Statement (3 pages); and  
PTO-1449 (2 pages)

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NOV 09 2004

Docket No. 4378 D3 US

## IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of

LEE et al.

Serial No.: 10/840,189

Filed: May 5, 2004

For: NITRO-SUBSTITUTED NON-  
FLUORESCENT ASYMMETRIC  
CYANINE DYE COMPOUNDS

Group Art Unit: 1637

Examiner: To Be Assigned

<p style="text-align: center;">CERTIFICATE OF MAILING</p> <p>I hereby certify that this correspondence is being mailed to the United States Patent and Trademark Office, Fax No. 703-872-9306 on <u>November 9,</u> <u>2004</u></p> <p style="text-align: center;">November <u>9</u>, 2004 (Date of Deposit)</p> <p style="text-align: center;">Nancy L. Glynn Name of Depositing Party</p> <p style="text-align: center;"><i>Nancy L. Glynn</i> Signature of Depositing Party</p>
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INFORMATION DISCLOSURE STATEMENTCommissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

Applicants submit herewith patents, publications or other information (listed on the attached Form PTO-1449) of which they are aware, which may be material to the examination of this application and in respect of which there may be a duty to disclose in accordance with 37 CFR §1.56.

This Information Disclosure Statement:

- (a) ☐ accompanies a new patent application submitted herewith.
- (b) ☐ is filed within three months after the filing date of the application or within three months after the date of entry of the national stage of a PCT application as set forth in 37 CFR §1.491.
- (c) ☒ as far as is known to the undersigned, is filed before the mailing date of a first Office action on the merits.
- (d) ☐ as far as is known to the undersigned, is filed before the mailing date of a first Office action after the filing of a request for continued examination under § 1.114.

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- (e) ☐ is filed after the first Office Action and more than three months after the application's filing date or PCT national stage date of entry filing but, as far as is known to the undersigned, prior to the mailing date of either a final action under §1.113, a notice of allowance under §1.311, whichever occurs first, and is accompanied by either the fee (\$180) set forth in 37 CFR §1.17(p) or a certification as specified in 37 CFR §1.97(e), as checked below. Should any fee be due, the U.S. Patent and Trademark Office is hereby authorized to charge Deposit Account No. 01-2213 in the amount of \$180.00 to cover the cost of this Information Disclosure Statement. Any deficiency or overpayment should be charged or credited to this deposit account. A duplicate of this sheet is enclosed.
- (f) ☐ is filed after the mailing date of either a final rejection or a notice of allowance, but on or before the payment of the issue fee, and is accompanied by the fee (\$180) set forth in 37 CFR §1.17(i)(1) and a certification as specified in 37 CFR §1.97(e), as checked below. **This document is to be considered as a petition requesting consideration of the information disclosure statement.** The U.S. Patent and Trademark Office is hereby authorized to charge Deposit Account No. 01-2213 in the amount of \$180.00 to cover the cost of this Information Disclosure Statement. Any deficiency or overpayment should be charged or credited to this deposit account. A duplicate of this sheet is enclosed.

[If either of boxes (e) or (f) is checked above, the following "certification" under 37 CFR §1.97(e) may need to be completed.] The undersigned certifies that:

- ☐ Each item of information contained in the information disclosure statement was first cited in a communication mailed from a foreign patent office in a counterpart foreign application not more than three months prior to the filing of this information disclosure statement.
- ☐ No item of information contained in this information disclosure statement was cited in a communication mailed from a foreign patent office in a counterpart foreign application, and, to the knowledge of the undersigned after making reasonable inquiry, was known to any individual designated in 37 CFR §1.56(c) more than three months prior to the filing of this information disclosure statement.

A copy of the items on PTO/SB/08A that are not United States Publications:

- ☐ are supplied herewith.
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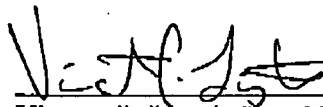
Serial No. 09/602,544, filed June 21, 2000; and prior application Serial No. 09/012,525, filed January 23, 1998 and relied upon in this application for an earlier filing date under 35 USC §120.

While the information and references disclosed in this Information Disclosure Statement may be "material" pursuant to 37 CFR §1.56, it is not intended to constitute an admission that any patent, publication or other information referred to therein is "prior art" for this invention unless specifically designated as such.

In accordance with 37 CFR §1.97(g), the filing of this Information Disclosure Statement shall not be construed to mean that a search has been made or that no other material information as defined in 37 CFR §1.56(a) exists. It is submitted that the Information Disclosure Statement is in compliance with 37 CFR §1.98 and MPEP §609 and the Examiner is respectfully requested to consider the listed references.

Respectfully submitted,

Date: November 09, 2004



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Substitute for form 1449A/PTO  <b>INFORMATION DISCLOSURE STATEMENT BY APPLICANT</b>  (Use as many sheets as necessary)			<b>Complete if Known</b>		
			Application Number	10/840,189	
			Filing Date	MAY 5, 2004	
			First Named Inventor	Linda G. Lee	
			Group Art Unit	1637	
			Examiner Name	To be assigned	
Sheet	1	of	2	Attorney Docket No.	4378 D3

U.S. PATENT DOCUMENTS						
Examiner Initials*	Cite No. <sup>1</sup>	U.S. Patent Document		Name of Patentee or Applicant of Cited Document	Date of Publication of Cited Document MM-DD-YYYY	Pages, Columns, Lines Where Relevant Passages or Relevant Figures Appear
		Number	Kind Code <sup>2</sup> (if known)			
	1	4,883,867		Lee et al.	11/28/1989	
	2	5,321,130		Yue et al.	06/14/1994	
	3	5,410,030		Yue et al.	04/25/1995	
	4	5,436,134		Haugland et al.	07/25/1995	
	5	5,534,416		Millard et al.	07/09/1996	
	6	5,582,977		Yue et al.	12/10/1996	
	7	5,656,449		Yue	08/12/1997	
	8	5,658,735		Lee	08/19/1997	
	9	5,658,751		Yue et al.	08/19/1997	
	10	5,863,753		Haugland et al.	01/26/1999	

FOREIGN PATENT DOCUMENTS								
Examiner Initials*	Cite No. <sup>1</sup>	Foreign Patent Document			Name of Patentee or Applicant of Cited Document	Date of Publication of Cited Document MM-DD-YYYY	Pages, Columns, Lines Where Relevant Passages or Relevant Figures Appear	T <sup>3</sup>
		Office <sup>2</sup>	Number <sup>4</sup>	Kind Code <sup>5</sup> (if known)				
	11	EP	0 710 668	A2	Becton Dickinson Co	05/08/1996		
	12	EP	0 714 986	A1	Tosoh Corporation	06/05/1996		
	13	JP	09 288326			11/04/1997		
	14	WO	96/04405		The Regents of the University of California	02/15/1996		
	15	WO	96/15270		Perkin-Elmer Corp.	05/23/1996		
	16	WO	97/45539		Mikael Kubista, N. Solstensvagen	12/04/1997		

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		Application Number	10/840,189		
		Filing Date	May 5, 2004		
		First Named Inventor	Linda G. Lee		
		Group Art Unit	1637		
		Examiner Name	To be assigned		
Sheet	2	of	2	Attorney Docket No.	4378 D3

OTHER ART - NON PATENT LITERATURE DOCUMENTS			
Examiner Initials*	Cite No. <sup>1</sup>	Include name of the author (in CAPITAL LETTERS), title of the article (when appropriate), title of the item (book, magazine, journal, serial, symposium, catalog, etc.), date, page(s), volume-issue number(s), publisher, city and/or country where published.	T <sup>2</sup>
	17	Benson et al., "Fluorescence Energy-Transfer Cyanine Heterodimers with High Affinity for Double-Stranded DNA," <i>Analytical Biochemistry</i> , 231:247-255 (1995)	
	18	Brooker et al., "Color and Constitution. V. The Absorption of Unsymmetrical Cyanines Resonance as a basis for a Classification of Dyes," <i>JACS</i> 64:199-210 (February 1942)	
	19	Ficken, G.E., "Cyanine Dyes," <i>The Chemistry of Synthetic Dyes</i> , Vol. IV, Vewkataraman, Chapt. V. pp. 211-340 (1971)	
	20	Hung et al., "Cyanine Dyes with High Absorption Cross Section as Donor Chromophores in Energy Transfer Primers," <i>Analytical Biochemistry</i> 243:15-27 (1996)	
	21	Inagaki et al., "Photothermographic material," <i>Chemical Abstracts</i> 128(4):1162 (January 26, 1998)	
	22	Lee et al., "Thiazole Orange: A New Dye for Reticulocyte Analysis," <i>Cytometry</i> 7:508-517 (1986)	
	23	Mujumdar et al., "Cyanine Dye Labeling Reagents: Sulfoindocyanine Succinimidyl Esters," <i>Bioconjugate Chem.</i> 4(2):105-111 (1993)	
	24	International Search Report from PCT/US99/01163 mailed 06/04/99	

Examiner Signature	Date Considered
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